

COURT OF APPEALS OF MARYLAND

In re Kaleb K.

390 Md. 502 (2006) · Decided January 11, 2006

SUMMARY

The Maryland Court of Appeals held that Kaleb K. failed to preserve his argument that a delinquency petition should be dismissed under Courts and Judicial Proceedings Article § 3-8A-13(b), because he relied before the juvenile court solely on a different statute, § 3-8A-10(c)(4), and its actual-prejudice standard. The court affirmed the Court of Special Appeals without reaching whether the petition was untimely under § 3-8A-13(b).

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Battaglia
JURISDICTION	Maryland
DECIDED	January 11, 2006
DISPOSITION	affirmed
PROCEDURAL POSTURE	Kaleb K. appealed from a juvenile court judgment adjudicating him delinquent after the Circuit Court for Prince George's County denied his motion to dismiss the delinquency petition as untimely. The Court of Special Appeals held that his argument under Maryland Code section 3-8A-13(b) was not preserved and affirmed in part, while vacating the harassment adjudication. The Court of Appeals granted certiorari and affirmed the judgment of the Court of Special Appeals.
STANDARD OF REVIEW	Maryland Rule 8-131(a) preservation review; the appellate court ordinarily will not decide an issue that was not raised in or decided by the trial court, subject to limited exceptions.
PRECEDENTIAL VALUE	Published Maryland Court of Appeals opinion; precedential.
PARTIES	Kaleb K. v. State

TOPICS

- preservation of error
- appellate procedure
- statutory interpretation
- criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Kaleb preserved for appellate review an argument that the delinquency petition was untimely under Maryland Code section 3-8A-13(b) when he moved below under section 3-8A-10(c)(4) and did not cite or argue section 3-8A-13(b).
2. Whether the juvenile court erred in denying the motion to dismiss the delinquency petition as untimely.

HOLDINGS

1. An appellant does not preserve an argument based on a statute that was neither cited nor argued in the trial court, even when the appellant preserved the general right to appeal the denial of a motion to dismiss.

KEY QUOTATIONS

“[t]his [C]ourt can review only the ruling actually asked and made.” (512)

“Thus, we need not reach Petitioner’s second question.” (513)

FACTUAL BACKGROUND

Kaleb K., then sixteen, allegedly threatened Brandon Goldschmitt by lifting his shirt as if reaching for a gun. After adult criminal charges were dismissed at a preliminary hearing, the State filed a delinquency petition approximately five months after the underlying events and several months after the dismissal. Kaleb moved to dismiss under a statute requiring him to demonstrate actual prejudice from the delay, but he did not argue below that a different statute required the State to establish good cause for the delayed filing.

PROCEDURAL HISTORY

The State initially charged Kaleb K. as an adult, but the District Court dismissed the charges at a preliminary hearing. The State later filed a delinquency petition in the Circuit Court for Prince George's County. At the delinquency hearing, Kaleb moved to dismiss under section 3-8A-10(c)(4), arguing that the State's delay caused prejudice; the court denied the motion for failure to establish actual prejudice and adjudicated him delinquent on several counts. On appeal, Kaleb relied on section 3-8A-13(b), which he had not cited or argued below. The Court of Special Appeals held that the argument was unpreserved, and the Court of Appeals affirmed without reaching the merits of the statutory-timeliness issue.

DISPOSITION

affirmed

CASES CITED

- In re Anthony R., 362 Md. 51, 763 A.2d 136 (2000)
- In re Kaleb K., 388 Md. 404, 879 A.2d 1086 (2005)

- Wickman v. Bohle, 173 Md. 694, 196 A. 326 (1938)
- Brice v. State, 254 Md. 655, 255 A.2d 28 (1969)
- Banks v. State, 203 Md. 488, 102 A.2d 267 (1954)
- State v. Bell, 334 Md. 178, 638 A.2d 107 (1994)
- Basoff v. State, 208 Md. 643, 119 A.2d 917 (1956)
- Medley v. State, 52 Md. App. 225, 448 A.2d 363 (1982)

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